THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.1949 of 2000

Date:14.11.2007

Between:
Audarsa Vidyalaya English Medium High School,
122, G.N.Mada Street, Tirupati, Chittoor District,
represented by its Secretary-cum-Correspondent
Sri V.S.Narasimhachari, S/o.P.B.Kalyana Iyyangar,
56 yrs, Netaji Road, Tirupati, Chittoor District.

... Petitioner

AND
Land Acquisition Officer and Special
Tahasildar, Land Acquisition, Tirupati
Urban Development Authority, Tirupati,
Chittoor District and another.

... Respondents

Counsel for the petitioner: Sri S.V.Ramana, Advocate,
representing
Sri O.Manohar Reddy.

Counsel for the respondents: Asst. Govt. Pleader for Land Acquisition.

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HONOURABLE MR.JUSTICE C.V.NAGARJUNA REDDY

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ORDER:-

This Writ Petition is filed for a Writ of Mandamus to set aside the proceedings dated 22-6-1999 issued by the Special Tahasildar, Land Acquisition, Tirupati Urban Development Authority, Tirupati, 1st respondent herein, whereby the application of the petitioner for reference of the dispute under Section 18 of the Land Acquisition Act, 1894 (for short "the Act) was rejected.

The respondents acquired certain lands belonging to the petitioner by issuing notification under Section 4(1) and declaration under Section 6 of the Act dated 10-11-1992 and 20-4-1993 respectively. Questioning the said acquisition proposals, the petitioner filed Writ Petition No.7375 of 1993 and on 3-6-1993 this Court directed status quo obtaining as on that date in respect of the proceedings issued by the District Collector shall be maintained. However, on 16-6-1993 Award was passed determining the market value of the acquired lands. The material produced by the petitioner in the Writ Petition shows that it has repeatedly approached the Government for canceling the Award and all its efforts proved futile. In the year 1998 the petitioner approached respondent No.1 for reference of its claim for enhancement of compensation to a Civil Court under Section 18 of the Act. The said application was rejected by endorsement dated 22-6-1999, which is impugned in this Writ Petition.

Sri G.Venkata Ramana, Special Tahasildar, Land

Acquisition, Tirupati, filed a counter-affidavit, in which it is mentioned that notice under Section 12(2) of the Act was sent to the petitioner on 18-6-1993, through a special messenger, but it was refused to be received, that notice was again sent on 24-6-1993, which was received by Smt.S.Nagarukmini, in charge Head Mistress of the petitioner-School on the same day and that another copy of notice was sent by registered post on 25-6-1993, which was acknowledged on 30-6-1993. The respondents are, therefore, justified in rejecting the request of the petitioner for reference of its claim for enhanced compensation to a Civil Court.

Sri S.V.Ramana, learned counsel representing Sri O.Manohar Reddy, learned counsel for the petitioner, contended that though an order of status quo was granted on 3-6-1993 by this Court, Award was passed on 16-6-1993 in violation of the said order. He further submitted that the petitioner had been making efforts to get the Award set aside and as it could not succeed in its efforts, it, eventually, made an application in the year 1998 for reference of it's claim for enhanced compensation. He, therefore, pleaded that the respondents are not justified in rejecting the petitioner's application as barred by time.

The learned Assistant Government Pleader for Land Acquisition, however, submitted that since notices under Section 12(2) of the Act were served on the in charge Head Mistress of the petitioner-School and the petitioner kept quiet for about five years in approaching the land acquisition authorities for reference, the respondents have rightly rejected the request of the petitioner for reference to a Civil Court.

Under proviso to Section 18 of the Act if the Award was passed in the presence of the party, he shall make a request for reference of the dispute to the Civil Court within six weeks from the date of the Collector's Award and in other cases such an application shall be made within two months from the date of service of notice of the Collector under Section 12(2) of the Act. In paragraph 5, page 5 of the counter-affidavit it has been categorically stated that when the Award notice was sought to be served through a special messenger on 18-6-1993, the same was refused to be received, but on 24-6-1993 it was received by Smt.S.Nagarukmini, in charge Head Mistress of the petitioner-School, on the same day, besides serving a copy of the notice dated 25-6-1993 on 30-6-1993 through registered post under acknowledgment. The petitioner has not filed any rejoinder, though almost seven years had elapsed from the date of filing of the counter-affidavit, denying the said averments contained in the counter-affidavit. Therefore, the application filed by the petitioner for reference is far beyond the time stipulated by proviso (b) to Section 18 of the Act.

The contention of the learned counsel for the petitioner that despite the order of status quo an Award was passed and, therefore, it is liable to be ignored, can be noted only to be rejected. The petitioner's efforts to get the Award invalidated did not succeed and it is only with reference to the Award, which was passed on 16-6-1993, that the petitioner is seeking reference of the dispute to the Civil Court. Whether the Award was passed in violation of the order of status quo or not is a question which is not germane for consideration to decide the issue involved in this Writ Petition, viz., whether the application

filed by the petitioner seeking reference is within time and the impugned endorsement under which the petitioner's request was rejected is sustainable or not? I am, therefore, of the view that refusal to refer the dispute to a Civil Court under Section 18 of the Act, which is challenged in this Writ Petition, does not suffer from any illegality warranting interference of this Court under Article 226 of Constitution of India.

The Writ Petition is, therefore, dismissed.

C.V.NAGARJUNA REDDY,J
14-11-2007

MNR